

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IVAN KILGORE,

No. C 07-5124 SI (PR)

Petitioner,

**ORDER DENYING ISSUANCE OF A
CERTIFICATE OF APPEALABILITY**

v.

J. WALKER, Acting Warden,

Respondent.


The Court denied the habeas petition filed in the above-titled action, and entered judgment in favor of respondent on December 28, 2009. Petitioner appealed to the Ninth Circuit Court of Appeals, and filed a motion for reconsideration in this Court (Docket Nos. 31 & 32). This Court denied the motion for reconsideration on January 21, 2010. On October 27, 2011, the Ninth Circuit Court of Appeals denied his request for a certificate of appealability (“COA”) as to his appeal on his petition.

The Court of Appeal has remanded this action to this Court for the limited purpose of granting or denying a certificate of appealability as to petitioner’s motion for reconsideration. This Court, after reviewing issues raised in the petition and in the motion for reconsideration, hereby denies a certificate of appealability on grounds that petitioner has not shown that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court

1 was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Petitioner
2 may seek a COA from the Court of Appeals.

3 **IT IS SO ORDERED.**

4 DATED: May 1, 2012



SUSAN ILLSTON
United States District Judge